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SUBJECT: High Court Rules on Kaohsiung Mayor -- Chen Chun Stays

REF: A) Taipei 2379 B) Taipei 1565 C) Taipei 1457 D) Taipei 1382
E) Taipei 520 F) 2006 Taipei 4152 G) 2005 Taipei 3793

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¶1. (SBU) Summary. At 4 p.m. on November 16, the Taiwan High Court, Kaohsiung Branch, rejected a District Court ruling which had nullified the December 2006 Kaohsiung mayoral election (refs B and D). DPP Mayor Chen Chu will, thus, retain her mayoral seat. In a related suit, the High Court upheld the District Court's earlier ruling that neither voter fraud nor ballot manipulation occurred during the 2006 Kaohsiung mayoral election (refs B, E and F). As such, decisions in both lawsuits fell against the KMT. No further appeals are allowable in either case. Mayor Chen Chu expressed gratitude for the High Court's decision, claiming justice was served. The defeated KMT former mayoral candidate Huang Chun-ying said he respects the court ruling, while KMT presidential candidate Ma Ying-jeou suggested the DPP may have pressured the judges to overturn the appeal. Weekend rallies in Kaohsiung by both parties were peaceful and muted. End summary.

¶2. (SBU) In an announcement that surprised many locals (ref A) on November 16, the Taiwan High Court, Kaohsiung Branch, rejected an August District Court ruling that nullified the December 2006 Kaohsiung mayoral election. In anticipation of the court announcement, the Kaohsiung police had deployed 800 police officers at the court to prevent a possible riot should the nullification be upheld. Some 200 DPP supporters and a small handful of KMT supporters gathered near the police barricades in front of the court. Police removed two DPP supporters from the scene when minor scuffles broke out before the announcement. Another 100-plus DPP supporters gathered peacefully in front of City Hall to attend Chen Chu's anticipated 5 p.m. press conference. Upon learning the ruling would keep Chen Chu in office, the crowd at the court dispersed immediately and without incident. Supporters at the City Hall cheered the announcement and stayed for the press conference, presenting flowers to the Mayor.

¶3. (U) DPP Kaohsiung Mayor Chen Chu expressed gratitude for the High Court judges' decision and professed her faith in the election and judicial systems. She stated that justice had finally been rendered. She noted that the final court ruling was more refined and precise in interpreting the legal terms "coercive" and "intimidating" (ref C). Chen Chu then urged the KMT to accept the decision and her supporters to continue their support for her administration as well as for the DPP party candidates in the legislative and presidential campaigns. Only in this way, she said, will the DPP candidates win by a large margin and avoid the type of lawsuits that have dogged her over the last past year. DPP presidential candidate Frank Hsieh said he was delighted that the

final verdict averted a possible riot. DPP vice-presidential candidate Su Tseng-chang congratulated Chen Chu and praised the judges for a wise and fair verdict, urging the KMT-dominated City Council not to boycott Chen Chu's administration. President Chen Shui-bian thanked the judiciary for restoring Chen Chu's reputation, confirming the value of Taiwan's democracy, and placing the interests of Kaohsiung citizens over politics. Although a candidate has a right to litigate, Chen argued that such cases consume enormous social and judicial resources. He stressed that winning by a large margin removes the cause for such cases.

14. (U) The defeated former KMT mayoral candidate Huang Chun-ying expressed dissatisfaction with the verdict but said he respected the court ruling. He called on voters in the legislative and presidential elections to use their votes to express dissatisfaction with the DPP's "notorious" campaign tactics. He then vowed to help KMT candidates in the upcoming 2008 political campaigns. KMT presidential candidate Ma Ying-jeou said he respected the final verdict, but suggested the legal system may have been manipulated by the ruling DPP. KMT Kaohsiung-elected legislator Lo Shi-hsiung charged that the alleged vote-buying scandal (ref F) and the High Court ruling were both parts of a DPP conspiracy. He regretted that the judges were not courageous enough to use their official positions to guide Taiwan's election culture onto the right track. Some KMT legislators suggested that President Chen Shui-bian was informed of the final verdict prior to its announcement since he had predicted Chen Chu would win the case two days before the verdict was announced. President Chen vigorously denied these insinuations. Both Ma and Lo urged Taiwan voters to use their votes to defeat the DPP administration.

15. (SBU) Taiwan appeals courts are not limited in their review process. They have the authority to review all evidence and points

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of law (ref B) involved in a case. In this case, the High Court overturned the District Court's ruling (refs C and D) that Chen Chu's election-eve press conference was "coercive and intimidating," as specified by the Taiwan Election Law, "forc[ing] voters to vote against their will."

16. (SBU) National Sun Yat-Sen University Political Science Professor Liao Da-chi told AIT/K that she was "stunned" by the court verdict. She refused to comment on charges that the judges were "pro-Green." Liao noted that while the first ruling had been contradictory, the final ruling was stunning in the absence of any new evidence controverting the first ruling. Liao surmised that many Kaohsiung voters might be disappointed with the court ruling and turn against the DPP. The KMT, she pointed out, might be able to use the verdict to gain voter sympathy.

17. (U) The DPP held a rally in Kaohsiung the next day, November 17. With Chen Chu's court victory, the planned rally became more of a celebration for Chen Chu than a campaign effort for DPP legislative candidates. Police at the scene estimated about three thousand people attended the rally, making its scale much smaller than expected by DPP organizers. President Chen, DPP presidential and vice presidential candidates, and Premier Chang attended the rally. All urged the KMT not to cause "any more chaos" over its defeat in the 2006 Kaohsiung mayoral election. The five DPP candidates running in the Kaohsiung legislative elections were presented at the rally to solicit support from the crowd.

18. (U) On the same day, the KMT presidential candidate Ma Ying-jeou inaugurated his Kaohsiung campaign office. Ma emphasized the importance of reviving the economy and promised to bring prosperity to the city by opening the three direct links for Kaohsiung. Ma used the occasion to campaign for KMT candidates running in the legislative elections and urged voters not to be deceived again by the DPP, calling the DPP campaign pledges only "campaign rhetoric."

19. (SBU) Comment. The victory of Mayor Chen Chu in both suits against her election has increased KMT fears of potential DPP "last minute election tactics" in the upcoming January legislative and March presidential elections. While many DPP supporters acknowledge that Chen Chu has been a weak mayor and that a loss in her court

case might actually have been a greater boost to DPP campaign efforts, the party hopes to find a way to use this victory to strengthen its campaign momentum for the upcoming legislative and presidential elections. End Comment.

Thiele

Young